



Regulatory Compliance Cheatsheet

Diffusion 2019 | October 19





AML System

Why it exists?

How it operates?

Does it matter to you?





WHY IT EXISTS ?





Crime





“The public servant that misappropriated funds is subject to a prison sentence of one to eight years”





AML System

Why it exists?

Disincentivize crime by removing the financial incentive

Facilitate detection and prosecution of crime





HOW IT OPERATES ?





What is money laundering?

Money laundering is the processing of criminal proceeds to disguise their illegal origin

Source: FATF



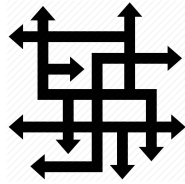
Placement



Layering



Integration



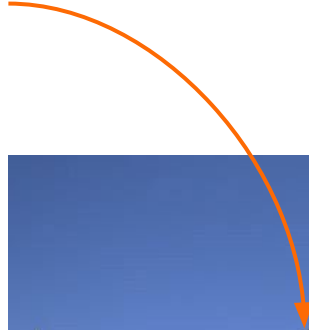
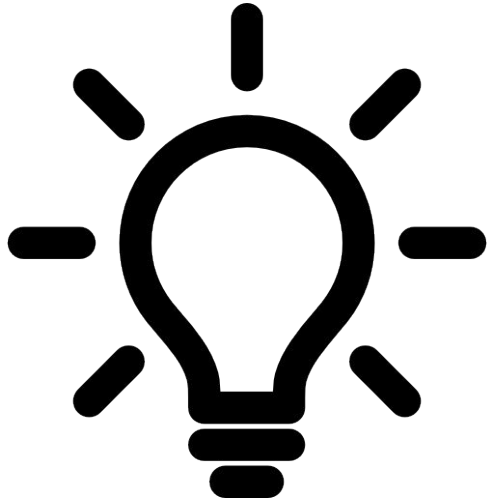
Bank

Lawyer

**Real estate
agent**



Financial System

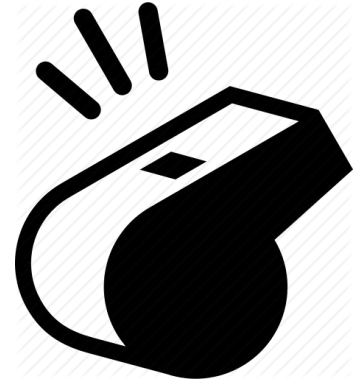
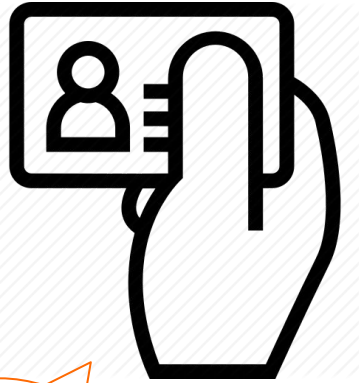




1. Know your customer

2. Monitor behaviour

3. Report suspicious activities





AML System

How it operates?

1. Appoints gatekeepers
2. Assigned them AML obligations
 - identifying their customers
 - monitoring behaviour
 - reporting suspicious activity





AML & CRYPTO





5th AMLD

Article 2

1. This Directive shall apply to the following obliged entities:

- (1) credit institutions;
- (2) financial institutions;
- (3) the following natural or legal persons acting in the exercise of their professional activities:

▼M1

- (a) auditors, external accountants and tax advisors, and any other person that undertakes to provide, directly or by means of other persons to which that other person is related, material aid, assistance or advice on tax matters as principal business or professional activity;

▼B

- (b) notaries and other independent legal professionals, where they participate, whether by acting on behalf of and for their client in any financial or real estate transaction, or by assisting in the planning or carrying out of transactions for their client concerning the:
 - (i) buying and selling of real property or business entities;
 - (ii) managing of client money, securities or other assets;
 - (iii) opening or management of bank, savings or securities accounts;
 - (iv) organisation of contributions necessary for the creation, operation or management of companies;
 - (v) creation, operation or management of trusts, companies, foundations, or similar structures;
- (c) trust or company service providers not already covered under point (a) or (b);

▼M1

- (d) estate agents including when acting as intermediaries in the letting of immovable property, but only in relation to transactions for which the monthly rent amounts to EUR 10 000 or more;

▼B

- (e) other persons trading in goods to the extent that payments are made or received in cash in an amount of EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- (f) providers of gambling services;

▼M1

- (g) providers engaged in exchange services between virtual currencies and fiat currencies;
- (h) custodian wallet providers;



FATF - Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers

The Guidance makes clear that VASPs, and other entities involved in VA activities, need to apply all the preventive measures described in FATF Recommendations 10 to 21. The Guidance explains how these obligations should be fulfilled in a VA context and provides clarifications regarding the specific requirements applicable regarding the USD/EUR 1 000 threshold for VA occasional transactions, above which VASPs must conduct customer due diligence (Recommendation 10); and the obligation to obtain, hold, and transmit required originator and beneficiary information, immediately and securely, when conducting VA transfers (Recommendation 16). As the guidance makes clear, relevant authorities should co-ordinate to ensure this can be done in a way that is compatible with national data protection and privacy rules.



FCA - Guidance on Crypto Assets

46. However, firms should note that 5AMLD will be transposed into UK law by 10 January 2020 to introduce AML requirements to certain cryptoasset activities. The Government has announced that in the UK they will go beyond the scope of 5AMLD which proposes to extend AML/CTF regulation to entities carrying out the following activities:
- exchange services between one cryptoasset and another, or services allowing value transactions within one cryptoasset exchange or peer-to-peer exchange service provider
 - cryptoasset Automated Teller Machines
 - transfer of cryptoassets (In this context of cryptoassets, transfer means to conduct a transaction on behalf of another natural or legal person that moves a cryptoasset from one cryptoasset address or account to another)
 - issuance of new cryptoassets, for example through ICOs
 - the publication of open-source software (which includes, but is not limited to, non-custodian wallet software and other types of cryptoasset related software)



KEY TAKEAWAYS





1. The AML system has a praiseworthy objective - fighting behaviors that society deems undesirable
2. It aims to achieve it by imposing AML obligations on gatekeepers
3. If your project stands at the gates of the financial system, it is likely that your regulator will require you to act as a gatekeeper





THANK YOU!





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